



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,220	11/15/2001	Alan John Kingsman	674523-2011	8450

20999 7590 03/17/2003

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

BROWN, STACY S *CS*

ART UNIT	PAPER NUMBER
----------	--------------

1648

DATE MAILED: 03/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/001,220	KINGSMAN ET AL.	
	Examiner	Art Unit	
	Stacy S Brown	1648	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1648

DETAILED ACTION

1. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to **Group Art Unit 1648**.
2. Claims 1-18 are pending.

Election/Restrictions

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10, 13 and 16-18, drawn to a method of enhancing production of an infectious retrovirus, classified in class 435, subclass 5.
 - II. Claims 11-12, drawn to a composition comprising an infectious retrovirus, classified in class 424, subclass 208.1.
 - III. Claims 14-15, drawn to a nucleotide sequence, classified in class 536, subclass 23.1.

The inventions are distinct, each from the other because of the following reasons:

- a) Inventions I and II are related as product and process of making. The product, an infectious retrovirus, can be isolated from blood. The process of a product-by-process claim and intended use is given little patentable weight.
- b) Inventions I and III are related as product and process of using. The product, a nucleotide sequence can be used to test for screening chemical drug interactions.
- c) Inventions II and III are unrelated. The retrovirus and nucleotide sequence are not disclosed as capable of use together, nor do they share structure, function, modes of operation and effect.

Art Unit: 1648

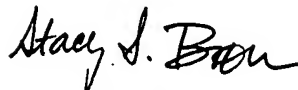
Because these inventions are distinct for the reasons given above and the search required for one group is not required or co-extensive for any other group, and therefore burdensome, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Papers relating to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 located in Crystal Mall 1. The Fax number for Art Unit 1648 is (703) 308-4426. All Group 1600 Fax machines will be available to receive transmissions 24 hrs/day, 7 days/wk. Please note that the faxing of such papers must conform with the Notice published in the Official Gazette, 1096 OG 30, (November 15, 1989).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Stacy S. Brown, whose telephone number is (703) 308-2361. The Examiner can normally be reached on Monday through Friday from 6:30 AM-4:00 PM, (EST). If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, James C. Housel, can be reached at (703) 308-4027. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.



Stacy S. Brown
March 13, 2003



HANKYEL T. PARK, PH.D
PRIMARY EXAMINER

(FILE 'HOME' ENTERED AT 15:10:10 ON 07 NOV 2003)

FILE 'MEDLINE, BIOSIS, EMBASE, CAPLUS, SCISEARCH, USPATFULL' ENTERED AT 15:11:10 ON 07 NOV 2003.

L1 976 S "PIT1" OR "PIT2"
L2 7 S RECEPTOR-ENVELOPE INTERACTION
L3 1 S L1 AND L2
SET NOTICE DISPLAY 1

INDEX 'IFICLS, PATOSEP, PATDPA, INPADOC' ENTERED AT 15:13:04 ON 07 NOV 2003

SEA US 2002102537/PN,APPS

1 FILE INPADOC

L4 QUE US 2002102537/PN,APPS

FILE 'INPADOC' ENTERED AT 15:13:07 ON 07 NOV 2003

L5 1 S L4
SET NOTICE LOGIN DISPLAY

FILE 'MEDLINE, EMBASE, CAPLUS, USPATFULL' ENTERED AT 15:14:00 ON 07 NOV 2003

L6 5 DUP REM L2 (2 DUPLICATES REMOVED)
L7 1773 S ENDOGENOUS RECEPTOR
L8 9 S L1 AND L7
L9 7 DUP REM L8 (2 DUPLICATES REMOVED)
L10 919 S (JABBAR?)/AU
L11 19 S L10 AND VPU
L12 7 DUP REM L11 (12 DUPLICATES REMOVED)
L13 0 S L11 AND PRODUCTION
L14 18777 S DOWN-REGULATE
L15 34 S L7 AND L14
L16 4 S L15 AND L1
L17 4 DUP REM L16 (0 DUPLICATES REMOVED)

	Type	L #	Hits	Search Text	DB	Time Stamp
1	BRS	L1	119	kingsman.in.	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:40
2	BRS	L2	45	slingsby.in.	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:40
3	BRS	L3	597	yap.in.	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:40
4	BRS	L4	2448	435/235.1.ccls.	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:41
5	BRS	L5	525	435/239.ccls.	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:41
6	BRS	L6	10578	435/325.ccls.	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:41
7	BRS	L7	905	435/70.1.ccls.	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:41
8	BRS	L8	13486	14 or 15 or 17 or 16	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:41
9	BRS	L9	10608	"pit1" or "pit2" or "CD4"	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:42
10	BRS	L10	23171	retrovirus	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:42
11	BRS	L11	7	19 with cleave	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:45
12	BRS	L12	2616	19 with express\$3	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:46
13	BRS	L13	1334	112 and retrovirus	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:46
14	BRS	L14	300	113 and amphotropic	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:47
15	BRS	L15	238	114 and envelope	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:47
16	BRS	L16	229	115 and receptor	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:47
17	BRS	L17	142	116 and lentivirus	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:47
18	BRS	L18	129	117 and (producer adj cell)	USPAT; US-PGPUB; EPO; JPO; DERWENT	2003/06/06 16:48

	Comments	Error Definition	Errors
1			0
2			0
3			0
4			0
5			0
6			0
7			0
8			0
9			0
10			0
11			0
12			0
13			0
14			0
15			0
16			0
17			0
18			0

FILE 'MEDLINE, BIOSIS, EMBASE, CAPLUS, SCISEARCH' ENTERED AT 17:06:02 ON
06 JUN 2003

L1 721 S (KINGSMAN, A?)/AU
L2 82 S (SLINGSBY, J?)/AU
L3 490 S (YAP, M?)/AU
L4 1274 S L1-L3
L5 254726 S "PIT1" OR "PIT2" OR "CD4"
L6 69035 S L5 AND RECEPTOR AND CELL
L7 92 S L6 AND CLEAVE
L8 2 S L7 AND RETROVIRUS